

349/03665 (old JST-15) A01

### REMARKS

This letter is responsive to an Office Action mailed April 22, 2003. The applicant hereby notifies the Examiner that he has elected to respond pro se.

In the Office Action, the Examiner finds that claim 42 is indefinite according to 35 U.S.C. §112, second paragraph. In addition, claim 42 is anticipated by Goble et al., and claims 43 and 44 are obvious in light of Goble et al. (U.S. Patent No. 5,702,397).

The applicant hereby withdraws claims 42-44 and adds new claims 64-137. The applicant respectfully submits that new independent method claims 134 and 135 and dependent method claims 136 and 137 are written to the elected species.

The applicant further submits that new independent apparatus claims 64, 79, 94 and 109 have been *broadened* over withdrawn independent claim 42 for the purpose of allowing inclusion of multiple species detailed in the instant application. New *dependent* claims written to the elected species are claims 65-74, 78, 80-89, 93, 95-104, 108 and 110 to 119. New dependent claims 75-77, 90-92, 105-107 and 120-133 contain all the limitations of independent claims 64, 79, 94 and 109 and, as sub-assemblies, should be prosecuted together with independent claims 64, 79, 94 and 109. [MPEP §806.05(c)II]

In regards to the Examiner's objections to claim 42 on the basis of Goble et al., the applicant respectfully points out the following:

1. The filing date of U.S. Patent No. 5,702,397 by Goble et al. is February 20, 1996 while the present application is a divisional application of U.S. Patent No. 6,162,234, filed on February 14, 1996, prior to the filing date of Goble et al.:

2. Even in the Goble embodiment that is most relevant to the present application, shown in Figs. 25 and 26, there is no prima facie case for anticipation by Goble et al.

**Claim 109** of the present application, claims "a compression surface adjoining the inner and outer surfaces, the compression surface being pressed against the tissue surface when the fastening system is deployed".

Goble et al. do not define a compression surface at either end of his fastener, rather, Fig. 6 shows the anchor 80 "mounted onto an end 22 of turning tool 21 and turned into the femoral tunnel section". (Column 13, lines 39-40)

Anchor 80 holds in place with "threads 152" (Column 23, line 46) against the surrounding walls of tunnel 12 in the bone, rather than compressing against a forward surface.

Additionally, independent apparatus claims 64, 79 and 94 contain elements not described in Goble et al. (U.S. Patent No. 5,702,397), for example:

349/03665 (old JST-15) A01

**Claim 64** of the present application, claims "one or more element channels extending substantially along the radial axis of at least one of the two or more nut sections, the one or more element channels adapted to press the elongate element".

Goble et al. in the embodiment shown in Figs. 25 and 26, shows a "depression 160" having a short length and a reciprocal "raised section 161" that press suture 27. (Column 12, lines 61-63). This is in distinct contrast to the instant invention.

**Claim 79** of the present application, claims "the height of the radial axis of the band being less than the height of the radial axis of the nut."

Goble et al. in the embodiment shown in Figs. 25 and 26, shows "cylindrical body 151" having a greater length than "collet halves 158a and 158b (Column 12, line 64).

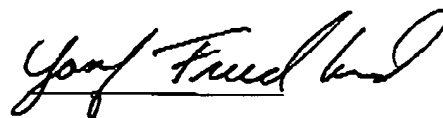
**Claim 94** of the present application, claims "at least a portion of at least one of the first and second compression surfaces being compressed against the tissue surface while the first and second clamping surfaces clamp the elongate element".

Goble et al. in the embodiment shown in Figs. 25 and 26, shows "cylindrical body 151" that is first embedded in "tibial tunnel 12" (Column 13, line 47 – Referring to Fig. 7) after which collet halves 158a and 158b are inserted into cylindrical body 151.

Clearly the apparatus of the present application is different than the apparatus of Goble et al. and there is no prima facie case for anticipation by Goble et al.

Early and favorable consideration is earnestly solicited. In the event that the Examiner cannot issue a notice of allowance, please use the address listed below for sending correspondence to the applicant.

Respectfully submitted,



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